

180250 SA

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
ELIZABETH ZECK*
PAIGE J. GOSSETT
RANDOLPH R. LOWELL
K. CHAD BURGESS
NOAH M. HICKS II**
M. McMULLEN TAYLOR
BENJAMIN P. MUSTIAN

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

June 9, 2006

*ALSO ADMITTED IN TX

**ALSO ADMITTED IN VA

VIA HAND DELIVERY

The Honorable Charles L.A. Terreni

Chief Clerk/Administrator

Public Service Commission of South Carolina

101 Executive Center Drive

Columbia, South Carolina 29210

RE: Application of United Utility Companies, Inc. for adjustment of rates
and charges and modifications to certain terms and conditions for the
provision of water and sewer service; Docket No. 2006-107-WS

Dear Mr. Terreni:

Enclosed for filing please find the original and ten (10) copies of Applicant's Answer to
Petition to Intervene of Greenville Timberline SC, LLC and Motion to Dismiss Petition to Intervene
in the above-referenced matter.

By copy of this letter, I am serving counsel for all parties of record with a copy of same and
enclose a certificate of service to that effect.

I would appreciate your acknowledging receipt of this document by date-stamping the extra
copy that is enclosed and returning it to me via my courier. If you have any questions or if you need
any additional information, please do not hesitate to contact us.

Sincerely,

WILLOUGHBY & HOEFER, P.A.



Benjamin P. Mustian

BPM/amw

Enclosures

cc: Shannon B. Hudson, Esquire
Nanette S. Edwards, Esquire
Duke K. McCall, Jr., Esquire
Newton Horr
Jacqueline H. Patterson, Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-107-WS

FILED
2006 JUN -9 PM 2:10
CLERK OF COURT
JAMES C. HARRIS

IN RE:)
)
Application of United Utility Companies,)
Inc. for adjustment of rates and charges)
and modifications to certain terms)
and conditions for the provision of)
water and sewer service.)
_____)

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of **Applicant's Answer to Petition to Intervene of Greenville Timberline SC, LLC and Motion to Dismiss Petition to Intervene** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Shannon B. Hudson, Esquire
Nanette S. Edwards, Esquire
Office of Regulatory Staff
1441 Main Street, 3rd Floor
Columbia, South Carolina 29201

Duke K. McCall, Jr. Esquire
Leatherwood Walker Todd & Mann, P.C.
Post Office Box 87
Greenville, SC 29602

Jacqueline H. Patterson, Esquire
Patterson & Coker, P.A.
1225 South Church Street
Greenville, SC 292605

Newton Horr
131 Greybridge Road
Pelzer, SC 29669

Andrea M Wright
Andrea M. Wright

Columbia, South Carolina
This 9th day of June, 2006.

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-107-W/S

FILED
2006 JUN -9 PM 2:1
COLUMBIA, SC

IN RE:)
)
Application of United Utility Companies,)
Inc. for adjustment of rates and charges)
and modification to certain terms)
and conditions for the provision of)
water and sewer service.)
_____)

**ANSWER OF UUC TO PETITION TO
INTERVENE OF GREENVILLE
TIMBERLINE SC, LLC**

Applicant, United Utility Companies, Inc. ("UUC" or "Company"), pursuant to 26 S.C. Code Ann. Regs. R. 103-837 (1976), hereby answers the allegations contained in the May 22, 2006, Petition to Intervene of Greenville Timberline SC, LLC ("Petition") filed with the Commission in the above-captioned matter as follows:

ANSWER

FOR A FIRST DEFENSE

1. Each and every allegation of the Petition not hereinafter specifically admitted is denied.

FOR A SECOND DEFENSE

2. UUC admits the allegations of Paragraphs 1 and 2 of the Petition upon information and belief.

3. Concerning the allegations of Paragraph 3, to the extent that North Greenville College currently holds itself out as North Greenville University ("NGU") and to the extent that NGU has

succeeded to the rights, duties and obligations of North Greenville College, UUC admits entering into an agreement with Greenville Timberline SC, LLC (“GTSC”) and NGU which, inter alia, provided for the conveyance of a wastewater treatment plant in Tigerville, South Carolina to UUC.¹ To the extent that Paragraph 3 asserts that the rates proposed by UUC in the instant docket apply only to the property relevant to the wastewater treatment plant in Tigerville, the same is denied. The proposed rates bear upon the water and wastewater customers of UUC in all areas in South Carolina in which UUC operates.

4. UUC denies the allegations of Paragraph 4 demands strict proof thereof. UUC asserts that any increased business provided to UUC resulting from the sale of GTSC’s property does not afford it a sufficient interest in the rates proposed by UUC.

5. UUC denies the allegations of Paragraph 5 and demands strict proof thereof. Any impact on future customers is not a sufficient interest to establish the necessary grounds for intervention pursuant to 26 S.C. Code Ann. Regs. R. 103-836.

6. UUC denies the allegations of Paragraph 6 as they are inconsistent with the terms the contract between UUC, GTSC and NGU and Commission Order No. 2004-253 (dated May 19, 2004) in Docket No. 2000-210-W/S. To the extent that any allegation in this paragraph remains unanswered, the same is denied and UUC craves reference to the contract referenced in this Paragraph for the pertinent terms and conditions of same.

¹ The Petition states that GTSC entered into an agreement on or about July 9, 2001 with [NGU and UUC] as evidenced by Exhibit A attached hereto and incorporated herein by reference.” The Petition further identifies that, pursuant to the agreement, GTSC “along with [NGU] conveyed to United Utility the wastewater treatment plant in Tigerville, South Carolina.” While the Petition served upon UUC did not contain a copy of the contract, the only contract pertaining to the conveyance of a wastewater treatment facility in Tigerville, SC to UUC is the contract identified in Exhibit A to this Motion. As such, UUC assumes this is the contract that is to be incorporated into the GTSC Petition, and, for purposes of this answer, UUC assumes and believes Petitioner refers to the July 9, 2001, agreement between and among UUC, GTSC and NGU.

7. UUC admits the allegations of Paragraph 7 of the Petition insomuch as it asserts that the Commission authorized the imposition of a new rate schedule. The Commission, in Order No. 2002-214 (issued March 22, 2002) in Docket No. 2000-210-WS authorized UUC to implement a new rate schedule. Thereafter, UUC petitioned for a reconsideration of said order and requested authorization to put the rates requested in its application into effect under bond. The Commission granted this request in Order No. 2002-494 and, UUC thereafter placed the increased rates into effect.

8. Concerning the allegations of Paragraph 8 stating that the Commission must balance competing interests of the financial integrity of utilities and the consumer, UUC asserts S.C. Code Ann. § 58-5-240(B) requires the Commission to hold a public hearing on the lawfulness or reasonableness of the proposed changes in rates. UUC further states that the Office of Regulatory Staff, as a statutorily designated party of record in proceedings before the Commission, has the responsibility to represent the public interest including 1) balancing the concerns of the using and consuming public with respect to public utility services class of customer (2) economic development and job attraction and retention in South Carolina; and (3) preservation of the financial integrity of the state's public utilities, pursuant to S.C. Code Ann. 58-4-10(B). UUC denies that the proposed rates are a "shock" rate to its customers.

9. To the extent that NGU references Order No. 2002-214 (issued March 22, 2002) in Docket No. 2000-210-WS, UUC admits the allegations of Paragraph 9 that the Commission approved a return on rate base of 4.39%. UUC denies the remainder of Paragraph 9 which suggests that 4.39% is the currently authorized return on rate base for UUC and affirmatively submits that the

Company is authorized by Commission Order No. 2004-254 a rate of return on rate base of 9.31% and that it is currently earning below its authorized return on rate base.

10. UUC denies the allegations of Paragraph 10. Further responding, UUC submits that these allegations are in direct conflict with a prior determination of the Commission in Order No. 2004-253 (dated May 19, 2004) in Docket No. 2000-210-W/S.

11. UUC denies the allegations of Paragraph 11 relating to the agreement with GTSC and states that these allegations have been previously decided adversely to GTSC by the Commission in Order No. 2004-253 (dated May 19, 2004) in Docket No. 2000-210-W/S. UUC also denies that the proposed rates will cause harm to GTSC's economic viability and demands strict proof thereof.

12. Paragraph 12 does not appear to require a response from UUC; however, to the extent that these sentences can be read to require a response, same are denied. UUC would further note that these modifications have been accepted by the Commission in other dockets involving other public utilities as being consistent with the statute law of South Carolina.

13. The allegations contained in the first sentence of Paragraph 13 do not appear to require a response from UUC; however, to the extent that this sentence can be read to require a response, same is denied. UUC denies that the proposed rates will work an undue hardship on GTSC and the other customers of UUC. UUC admits that the Commission is responsible to hold a public hearing on the lawfulness and reasonableness of the proposed rates and to determine the same. UUC denies that the proposed rates are neither fair nor reasonable.

FOR A FIRST AFFIRMATIVE DEFENSE

14. GTSC has failed to establish sufficient grounds upon which to intervene in this matter pursuant to 26 S.C. Code Ann. Regs. 103-836(A)(3).

FOR A SECOND AFFIRMATIVE DEFENSE

15. Pursuant to Rule 12(c) SCRCPP, UUC is entitled to judgment on the pleadings given that the allegations of the Petition are so defectively drawn in view of the plain language of Exhibit "A" incorporated therein by reference that the Petition fails to state a claim under law.

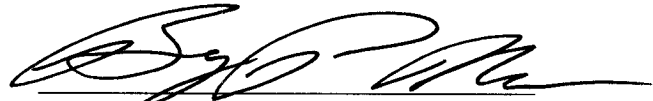
FOR A THIRD AFFIRMATIVE DEFENSE

16. The allegations contained in GTSC's Petition have not been raised in a timely manner and are barred by the doctrine of laches.

FOR A FOURTH AFFIRMATIVE DEFENSE

17. The allegations are subject to the doctrine of *res judicata* and should be stricken as impermissibly attempting to relitigate an issue adjudicated by the Commission in a prior matter.

WHEREFORE, having fully set forth its Answer, UUC requests that the Commission issue an order in response to the Petition of GTSC that is consistent with the foregoing.



John M.S. Hoefer

Benjamin P. Mustian

WILLOUGHBY & HOEFER, P.A.

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Applicant

Columbia, South Carolina
This 9th day of June, 2006